



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D. Ph.D  
Cabinet Secretary

March 22, 2011

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 3, 2011 for the purpose of determining whether or not an Intentional Program Violation occurred.

In arriving at a decision, the State Hearings Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Supplemental Nutrition Assistance Program (SNAP) is based on current policy and regulations. These regulations provide that an Intentional Program Violation consists of having intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts; or committed any act that constitutes a violation of the Food Stamp Act, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits (WV Income Maintenance Manual § 20.2 C(2) and 7 CFR Section 273.16 (c)).

The information submitted at your hearing revealed that you made a false statement at your April 2010 SNAP review by reporting your household's only income as employment for yourself and your husband when in fact you had been receiving rental income since December 2009.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you effective May 2011.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Christine Allen, Repayment Investigator

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
BOARD OF REVIEW**

-----,

**Defendant**

v.

**Action Number: 11-BOR-406**

**West Virginia Department of  
Health and Human Resources,**

**Movant**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on March 3, 2011 for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources.

**II. PROGRAM PURPOSE:**

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health & Human Resources.

The purpose of SNAP is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households." This is accomplished through the issuance of EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

Christine Allen, Repayment Investigator

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not Defendant committed an Intentional Program Violation.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 1.2 E, 9.1 A, and 10.3 PPP  
Code of Federal Regulations – 7 CFR §273.16

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 SNAP Claim Determination Form
- D-3 SNAP Issuance Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 SNAP Claim Calculation Sheet
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Front-End Fraud Unit Investigative Findings dated October 13, 2010
- D-9 Statement from Defendant dated October 12, 2010
- D-10 Statement from -----dated October 18, 2010
- D-11 Homeowners' Insurance Policy Declaration for April 2010 – October 2010
- D-12 ██████████ County Real Property Tax Information
- D-13 SNAP Review Form dated April 19, 2010
- D-14 Notification Letter dated May 6, 2010
- D-15 Repayment Notification Letter dated December 27, 2010
- D-16 Notification of Intent to Disqualify dated December 27, 2010
- D-17 WV Income Maintenance Manual § 1.2 E
- D-18 WV Income Maintenance Manual § 10.3 PPP
- D-19 WV Income Maintenance Manual § 20
- D-20 Code of Federal Regulations – 7 CFR §273.16

**Claimants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' Repayment Investigator, Christine Allen on January 25, 2011. The Department contends that Defendant has committed an Intentional Program Violation (IPV) and is recommending that she be disqualified from participation in SNAP for 12 months.

- 2) Defendant was notified of the hearing by letter sent by this Hearing Officer on February 1, 2011. Defendant failed to appear at the hearing or provide good cause for her failure to do so. In accordance with 7 CFR §273.16(e)(4) and Common Chapters Manual §740.20, the hearing was held in Defendant's absence.
- 3) Defendant completed a SNAP review on April 20, 2010. Defendant reported to her caseworker her household's only income consisted of employment for her husband, [REDACTED] and herself. Defendant also reported owning both homestead and non-homestead property. SNAP benefits were approved based on the information provided (D-1 and D-7).
- 4) In October 2010, a Front-End Fraud Unit investigation revealed that Defendant had been renting her non-homestead property on [REDACTED] WV to [REDACTED] for \$650 monthly since December 2009. A statement from [REDACTED] was obtained on October 18, 2010 which read in pertinent part (D-10):

I moved in the home around mid-Dec. 2009 with [REDACTED], and [REDACTED] and [REDACTED]. I am buying the home as a land contract or a rent contract, like a rent-to-own contract. I am buying the home from [REDACTED] who lives on [REDACTED] Street. I pay him by check. I pay \$650 per month. At [REDACTED] tax time each year I also give him \$1000 extra towards payment on the [REDACTED] home. This is all detailed in the land contract.

- 5) A statement from Defendant was also obtained on October 12, 2010 which read in pertinent part (D-9):

I [REDACTED] own the house on [REDACTED] Street. I rent to [REDACTED] and his family, his wife (or girlfriend, [REDACTED]) and [REDACTED] their 3 children. They have a rent-to-own contract with us, me and [REDACTED], and pay us \$650 in rent per month. They have been there [REDACTED] less than 1 year.

- 6) The Department contends Defendant intentionally withheld complete information regarding her household's income by not reporting the rental income of \$650 monthly at her SNAP review in April 2010. The result of the misrepresentation was an overpayment of \$1061 issued for which Defendant was not eligible for.
- 7) WV Income Maintenance Manual § 1.2 E states:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG

- Repayment of benefits
- Reduction in benefits

8) WV Income Maintenance Manual § 9.1 A(2)h states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

9) WV Income Maintenance Manual § 10.3 PPP states:

Rental Income: Counts as unearned, self-employment income

10) Code of Federal Regulations- 7 CFR § 273.16 states:

An Intentional Program Violation shall consist of having intentionally:

(1) Made a false or misleading statement, or misrepresented, concealed or withheld facts, or

(2) Committed any act that constitutes a violation of the Food Stamp [SNAP] Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

### VIII. CONCLUSIONS OF LAW:

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) The information submitted indicated Defendant has been renting her non-homestead property for \$650 a month since December 2009. Defendant made a false statement at her April 2010 SNAP review by reporting her household's only income as employment for herself and her husband.
- 3) The result of Defendant's misrepresentation was an overpayment of SNAP benefits issued for which Defendant was not entitled to receive.

### IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against Defendant effective May 2011.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 22<sup>nd</sup> day of March 2011.**

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**Kristi Logan  
State Hearing Officer  
Member, Board of Review**